

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LIONEL SHELL,

Petitioner,

No. C 11-02515 JSW

v.

GREG LEWIS, Warden,

ORDER

Respondent.

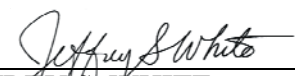
Pursuant to 28 U.S.C. § 2253, Petitioner requests the issuance of a certificate of appealability. However, Petitioner has failed to make a substantial showing that a reasonable jurist would find the dismissal of his petition debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted in this case.

Further, Petitioner files a request to proceed *in forma pauperis* on appeal. For the same reasons the Court has determined that a certificate of appealability was not warranted, the Court finds the appeal is not taken in “good faith.” Therefore, the Court DENIES the request for leave to proceed on appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Finally, attorney for Petitioner moves to withdraw as counsel of record and requests that Appellant be provided with appointed counsel. As this matter has been dismissed and is currently on appeal, this request is more properly presented on appeal and is DENIED without prejudice to refiling before the appellate court.

IT IS SO ORDERED.

Dated: October 15, 2012


JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE